

Lockey, Heather@CNRA

From: Tom Demere <tdemere@sdnhm.org>
Sent: Friday, March 9, 2018 3:54 PM
To: CEQA Guidelines@CNRA
Subject: Comment on proposed CEQA upgrades
Attachments: TA Demere Letter to CNRA 03-09-2018.pdf

Dear Mr. Calfee,

Please let me know you received the attached comment letter and thank you for the opportunity to participate in the important upgrade process.

Sincerely,

Tom Deméré

Thomas A. Deméré, Ph.D.
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Director, Department of PaleoServices
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SAN DIEGO NATURAL HISTORY MUSEUM

March 9, 2018

Mr. Christopher Calfee
Deputy Secretary and General Counsel
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814

Dear Mr. Calfee:

I am writing your office to comment on the proposed updates to the CEQA review process. My primary concern is on how the proposed changes affect the treatment and protection of California's Paleontological Resources under CEQA, and I would like to recommend that they be treated separately as a standalone issue in the CEQA checklist of Appendix G.

Until recently Paleontological Resources, which consist of the remains and behavioral traces of ancient organisms (fossils), were addressed in Appendix G as part of the Cultural Resources issue. This lumping of Paleontological Resources with Cultural Resources (prehistoric and historic) has often caused confusion to agency personnel and citizens alike, and this confusion is in part what ultimately led to the removal of Paleontological Resources from Cultural Resources with the passage of AB-52. While this change will most likely have a positive effect on the treatment of Cultural Resources, the decision to shoehorn consideration of Paleontological Resources into the Geology and Soils issue will not significantly improve the treatment of Paleontological Resources and may make matters worse.

Although Paleontological Resources are preserved and found in geological rock units, they are not related in any way to the environmental concerns traditionally addressed under the Geology and Soils issue; namely earthquake rupture, seismic ground shaking, unstable land surfaces and geologic units, expansive soils, and soil erosion. The treatment of paleontological resources, including the types of data gathered during the assessment phase of resource evaluation, the content and structure of the environmental documents produced, and the types of mitigation strategies employed, differs greatly from that of Geology and Soils. In fact, Paleontological Resources are really better thought of as ancient Biological Resources. This does not mean that Paleontological Resources should be addressed under the Biological Resources issue, but rather emphasizes the unique aspect of Paleontological Resources and the need for them to be treated as a new and separate issue during the CEQA review process.

I realize that one of the goals of the proposed updates to CEQA is to streamline the review process. However, it seems that another goal of the updates is to clarify the environmental issues under consideration and to recognize the changes in our understanding of these issues since the original passage of CEQA in 1970. This need for clarification and recognition of changes in understanding is apparently the reason that four new environmental issues have been added to the Appendix G checklist in the proposed updates, including Energy, Greenhouse Gas Emissions, Tribal Cultural Resources, and Wildfire. It is in this spirit of clarification and recognition that I recommend that Paleontological Resources be added to the Appendix G checklist as another new, standalone environmental issue. In making this request, I propose the following language:

Would the project:

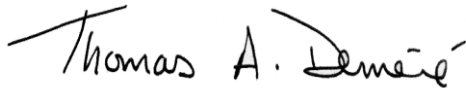
Directly or indirectly cause a substantial adverse effect on a paleontological resource or site?

It is noteworthy that this suggested new question differs from that currently proposed for Paleontological Resources under Geology and Soils, which reads, "*Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*" There are several problems with the

current question. First, as written the question combines two separate, unrelated, and distinctly different resources -- paleontological resources and geologic features. It is critical that these unrelated issues should be decoupled, with geologic features remaining as a consideration under Geology and Soils, and Paleontological Resources being moved into its own issue. The second problem with the current question is the difference in impact criteria required for action relative to other resources. For Biological and Cultural resources, the criteria are "*have a substantial adverse effect on*" Biological Resources or "*cause a substantial adverse change*" to Cultural Resources. In contrast, for Paleontological Resources the impact criteria are currently "*destroy a unique paleontological resource*". Thus, to be considered a potentially significant impact, Paleontological Resources must not be just adversely affected or adversely changed, they must be destroyed before the impact is considered significant. And finally, as currently written the implication is that the only impacts to be considered for Paleontological Resources are impacts to "*unique paleontological resources*" [undefined in CEQA], rather than to Paleontological Resources in general. This leaves the potential significance of an impact up to interpretation of what is meant by "unique." For all these reasons and for the enhanced protection of California's rich paleontological record, I strongly urge you to consider the above recommendations.

Thank you for the opportunity to comment on the proposed updates to the CEQA review process.

Sincerely,

A handwritten signature in black ink that reads "Thomas A. Deméré". The signature is written in a cursive style with a long horizontal line extending from the start of the name.

Thomas A. Deméré, Ph.D.
Curator, Department of Paleontology
Director, Department of PaleoServices
San Diego Natural History Museum